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ABSTRACT

In the 1985 "Aguilar v. Felton" decision, the Supreme Court prohibited public school teachers in compensatory education programs funded under Chapter 1 of the Education Consolidation and Improvement Act from providing remedial services to sectarian private school students on private school premises. This document comprises a report on the effects of the decision on the Chapter 1 program. Data were gathered using mail-out questionnaires and follow-up telephone calls to Chapter 1 coordinators in 50 states, the District of Columbia, and Puerto Rico and from visits to 12 school districts in six states. The following findings are discussed: (1) 46 states reported that school districts will spend an estimated $105 million for eligible capital expenditures; (2) most states reported that they will distribute funds to school districts based on eligible capital expenditures and/or enrollment, and that estimated expenditures exceed available funds; (3) immediately following "Felton," private school student participation dropped by 34 percent but has since risen to within 18 percent of pre-"Felton" levels; and (4) officials at the 12 sites visited reported that they preferred to have public school teachers provide services in the private school building, but they were generally satisfied with the new methods. Statistical data are included on four tables and 19 graphs. Data on following are appended: (1) school districts studied and sectarian private school students served under Chapter 1; (2) state estimates of past and future eligible capital expenditures; (3) supporting statistical data; (4) index of references to school districts studied; and (5) major contributors to this report. A list of related Government Accounting Office publications is also appended. (FMW)

United States General Accounting Office

GAO

Briefing Report to Congressional Committees

September 1989

COMPENSATORY EDUCATION

Aguilar v. Felton Decision's Continuing Impact on Chapter 1 Program

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
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United States
General Accounting Office
Washington, D.C. 20548

Human Resources Division

B-236638

September 27, 1989

The Honorable Edward M. Kennedy
Chairman, Committee on Labor and
Human Resources
United States Senate

The Honorable Orrin G. Hatch
Ranking Minority Member
Committee on Labor and Human Resources
United States Senate

The Honorable Augustus F. Hawkins
Chairman, Committee on Education and Labor
House of Representatives

The Honorable William F. Goodling
Ranking Minority Member
Committee on Education and Labor
House of Representatives

For more than two decades public school teachers in the Chapter 1 program, the federal program of compensatory education for the disadvantaged, provided remedial services to sectarian private school students on private school premises. In 1985, the Supreme Court prohibited this practice in its Aguilar v. Felton (Felton) decision. The Court held that this practice violated the establishment of religion clause of the First Amendment and was therefore unconstitutional. School districts had to find new ways to provide Chapter 1 services in compliance with the decision.

In response to your request, we studied the continuing effects of the decision on the Chapter 1 program. In particular, we agreed to identify (1) how much school districts had spent or planned to spend for new methods of providing remedial services and (2) how states plan to distribute to school districts federal funds authorized to help pay for these methods. We also agreed to determine (1) the changes in sectarian private school participation since Felton and (2) the satisfaction of public and sectarian private school officials with the new methods and the resulting quality of instructional services in selected school districts.[1]

[1]For the results of an earlier GAO study on the impact of the Aguilar-Felton decision, see our report Compensatory Education: Chapter 1 Services to Private Sectarian School Students (GAO/HRD-87-128BR, Sept. 21, 1987).

Using a mail-out questionnaire and follow-up telephone calls, we surveyed Chapter 1 coordinators in 50 states, the District of Columbia, and Puerto Rico. We also visited 12 school districts (listed in app. I) in six states to obtain detailed program data and interview officials in state education agencies as well as local public and private schools. Private school participation in these 12 districts represented about 14 percent of the private school participation nationwide before Felton. We performed our audit work between November 1988 and May 1989. This report elaborates on information we discussed with your offices and other interested congressional staff in briefings on May 16 and 25, 1989.

Background

The Chapter 1 compensatory education program first was established as Title I of the Elementary and Secondary Education Act of 1965. It gives federal aid to state education agencies and local school districts to help meet the special educational needs of disadvantaged children, whether they attend public or nonpublic schools, including private sectarian (or religiously affiliated) schools. As you know, after the Supreme Court decision participation in Chapter 1 by private school students declined sharply during school year 1985-86, while local school districts developed new methods to provide services and facilities. After a period of uncertainty, most school districts chose to provide these services in another way. They used sites not owned by sectarian private schools, such as mobile vans, trailers, renovated nonprivate school (neutral) sites, public schools, or computer-aided instruction (see pp. 18 to 22). School districts used Chapter 1 program grant funds to pay for the costs of the new methods.

In April 1988, the Congress, in Public Law 100-297, authorized the appropriation of funds over 6 years to pay school districts for eligible capital expenditures incurred for new methods of providing Chapter 1 services. For fiscal year 1989, the Congress appropriated $19.8 million, to be available from July 1989 to September 30, 1990, for states to use in paying local school districts for this purpose. (See p.12.)

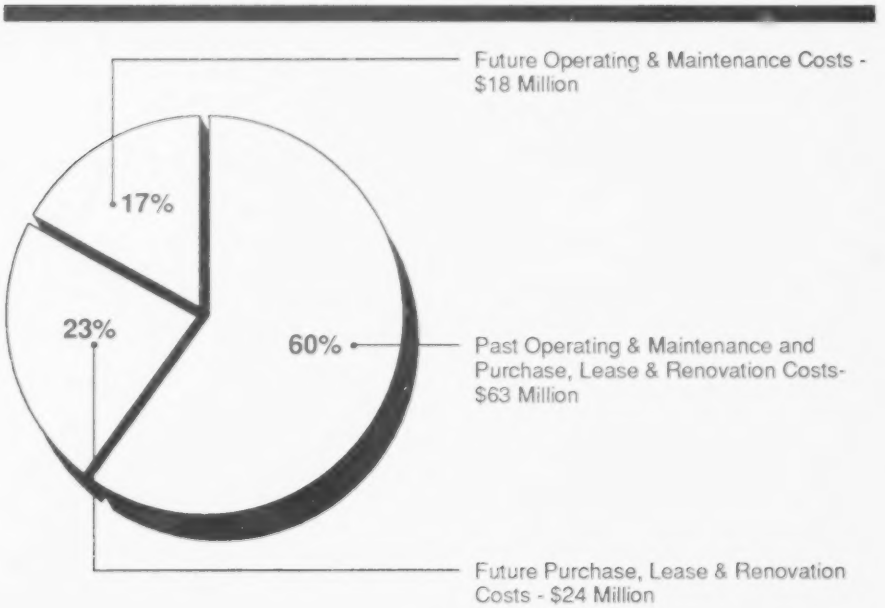
Nature and Amount of Eligible Capital Expenditures

Eligible capital expenditures are defined in Public Law 100-297 as noninstructional goods and services, such as the purchase, lease, and renovation of real and personal property; insurance and maintenance costs; transportation; and other comparable goods and services. (See p.16.)

Of the 52 state education agencies we spoke with, 46 reported that local school districts in their states had spent or will spend an estimated $105

million for such eligible expenditures (see fig. 1). These estimates are preliminary, however, because at the time of our review local school districts had not reported actual capital expenditures to the state education agencies. Further, these estimates exclude six states, including California, which together accounted for 19 percent of the private school Chapter 1 children before Felton. Had estimates for these states been available, the $105 million estimate would have been larger.

Figure 1: Estimated Eligible Capital Expenditures in 46 States


Future Operating & Maintenance Costs - $18 Million
17%
23%
60%
Past Operating & Maintenance and Purchase, Lease & Renovation Costs- $63 Million
Future Purchase, Lease & Renovation Costs - $24 Million

Of the 46 states that provided estimates of capital expenditures, 6 accounted for most of the $105 million, as shown in table 1. Before Felton, these states served 49 percent of Chapter 1 private school students.

Table 1: Estimated Eligible Capital Expenditures in Six States

Dollars in millions

State	Estimated expenditures		
	Past	Future	Total
New York	$21.0	$13.5	$34.5
Texas	-	11.5	11.5[b]
Pennsylvania	8.9	0.6	9.5
Louisiana	3.0	6.3	9.3
New Jersey	8.3	0.5	8.8
Illinois	4.5	1.7	6.2
Total	**$45.7**	**$34.1**	**$79.8[b]**

[a]Estimate unavailable

[b]Minimum estimate—excludes past expenditures in Texas

Of the estimated $63 million capital expenditures incurred, more was spent on mobile vans than any other method (see table 2). (States could not provide estimates on future spending for each method.) Additionally, the 46 state education agencies estimated that local districts spent $34 million on computer-aided instruction. The Department of Education does not allow payment for these expenditures, however, because computers used in lieu of teacher assistance do not fall within the statutory meaning of noninstructional goods and services. (See p.17.)

Table 2: Estimated Past Spending on Methods of Providing Services

Dollars in millions

Method	Spending
Eligible:	
Mobile vans	$31
Neutral sites	17
Portable classrooms	12
Public schools	3
Subtotal	$63
Ineligible:	
Computers	34
Total	**$97**

Plans for Distributing Capital Expense Payments

Each state's share of the $19.8 million the Congress appropriated for 1989 is proportional to its share of the nation's students at private schools served by Chapter 1 in school year 1984-85.[2] The Department of Education made these funds available to states in July 1989 and will allow reimbursement for past as well as payment for current and future expenditures. Most state officials said they will begin distributing funds to school districts no later than October 1989. States reported that most of the funds will be allocated to districts for past and present expenditures, on the basis of their share of statewide (1) eligible capital expenditures, (2) enrollment in Chapter 1 at private schools, or (3) both.

In the aggregate, estimated expenditures exceed funds appropriated to date; individually, all but two states estimate that their school districts have or will spend more money than currently allocated to them from the $19.8 million. As funds are appropriated for capital expense payments in future years, some states with relatively small expenditures may be allocated more funds than needed. However, excess allocations must be returned to the Department for reallocation to states with unmet needs. (See p. 25.)

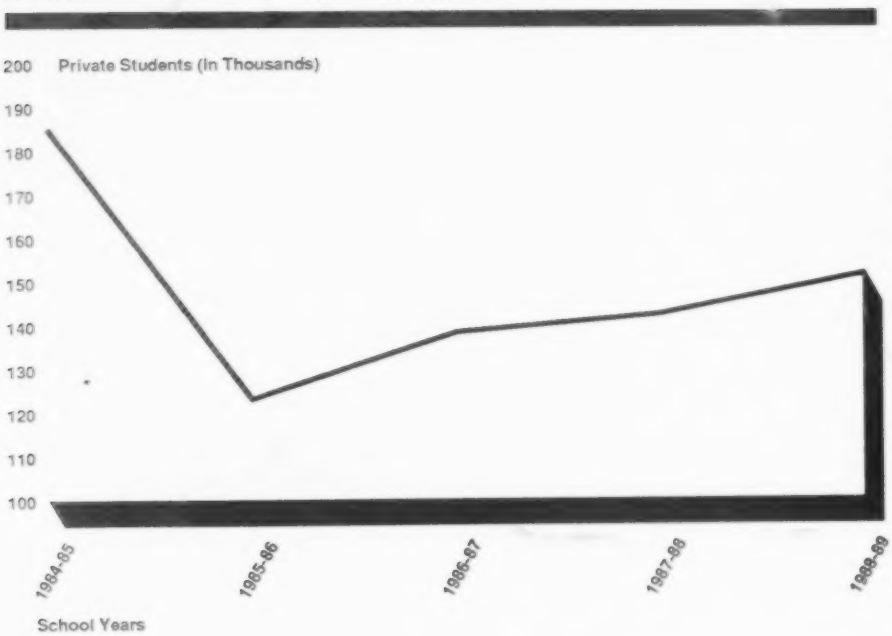
Private School Student Participation Since 1985

After the Felton decision, the number of private school students served by the Chapter 1 program declined sharply—from 185,000 nationwide in school year 1984-85 to 123,000 (down 34 percent) in school year 1985-86. Since the initial decline, such participation has increased to an estimated 151,000 students in school year 1988-89—within 18 percent of the number before Felton (see fig. 2). In school year 1988-89, 37 of the 52 state agencies reported participation to be below that before Felton. The remaining 15 states reported that participation equalled or exceeded the number before Felton.

In 8 of the 12 districts we visited, private school student participation was less than that before Felton. In school year 1988-89, such participation remained at 3,924 students (17 percent) below the 23,771 students served before Felton. This represents substantial recovery, however, in some districts. For example, private school participation in Los Angeles fell 98 percent in school year 1985-86 to 239 private students, but by school year 1988-89 participation rose to 7,988, 21 percent less than the number before Felton.

[2]See app. II for each state's estimated eligible capital expenditures and share of the federal funds appropriated for 1989.

Figure 2: Changes in Private Student Participation Nationwide



Factors that helped districts increase their private school participation included

- school district efforts to encourage such participation,
- Department of Education guidance in June 1986 clarifying that (1) portable classrooms and mobile vans could be used on publicly leased areas of private school property and (2) computer-aided instruction was permitted, and
- greater parental and private school acceptance of computer-aided instruction.

Factors that hindered participation included (1) parental resistance to busing, (2) limited capacity of mobile vans, and (3) an inability of some districts to justify the cost of new methods to provide services in schools with small numbers of children.

In an action unrelated to Felton, one school district we visited tightened its eligibility standards for participation. This reduced the number of private school students served. The magnitude of the impact of this kind

of action on participation levels in districts across the nation is unknown, but should be considered when comparing current participation to that before Felton. (See p. 28.)

Satisfaction With New Methods and Service Quality

At the 12 districts we visited, public and private school officials told us that although they preferred to have public school teachers provide Chapter 1 services in the private school building, they were generally satisfied with the new methods. Safety concerns involved in transporting students had been adequately resolved, the officials said, and transit time minimized for students required to leave the private school building. District officials were dissatisfied, however, that they still were unable to serve some eligible private students because of the hindrances to participation discussed above. Both public and private school officials were satisfied with the achievement test scores of private students served; they believed the test scores were as good as before Felton. In addition, these officials were satisfied that the new methods for providing services had minimized lost instructional time. (See p. 37.)

As requested by your offices, we did not obtain official agency comments on this report. We did, however, discuss its contents with Department of Education officials and made appropriate changes. We plan to send copies to interested parties and make copies available to others on request. The major contributors to this report are listed in appendix V.

William J. Gainer
Director, Education and
Employment Issues

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Abbreviations

GAO General Accounting Office

Introduction

Background

Since its inception as Title 1 of the Elementary and Secondary Education Act of 1965, the Chapter 1 compensatory education program has required that school districts serve eligible disadvantaged children, whether they attend public or private schools.

On July 1, 1985, a Supreme Court decision changed the manner in which Chapter 1 services could be provided to sectarian, (that is, religiously affiliated) private school students. In its Aguilar v. Felton (Felton) decision, the Court held that sending public school teachers into sectarian private schools to teach violated the establishment of religion clause of the First Amendment and was therefore unconstitutional.

In the 1985-86 school year, immediately following the decision, private school participation in the program declined by 34 percent nationwide as local school districts sought to put into place new methods for providing services and facilities, such as mobile vans, portable classrooms, computers, or renovated nonprivate school (neutral) sites and public schools. School districts paid for the new methods from Chapter 1 program grant funds.

To help with these costs, the Congress authorized funds in Public Law 100-297 to pay school districts for the cost of noninstructional goods and services incurred to provide Chapter 1 services to private school children. The Congress authorized appropriations as may be necessary to cover these expenses for 6 years—fiscal years 1988 to 1993. (See fig. 3.)

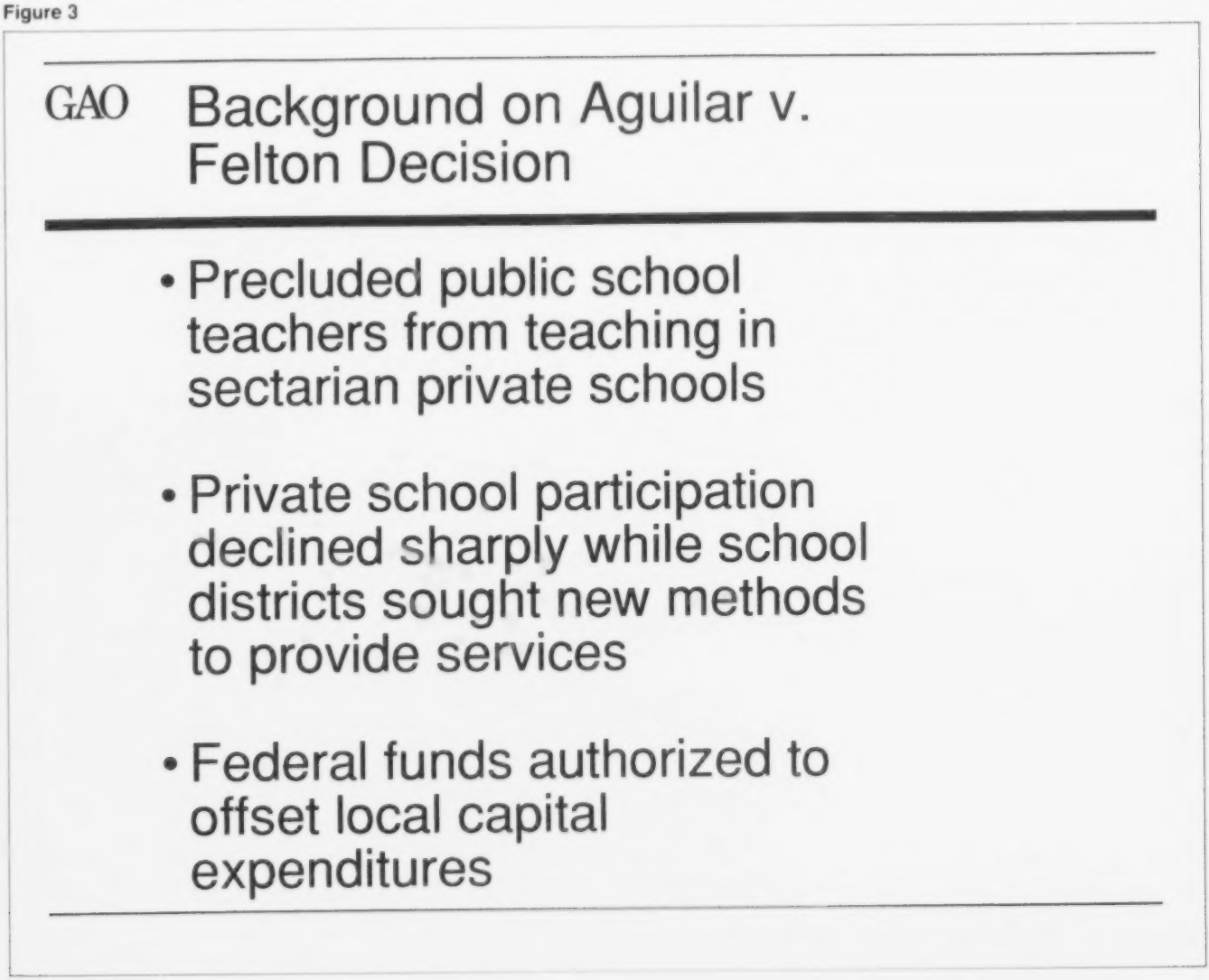
Objectives, Scope, and Methodology

The Congress has shown a continuing interest in the progress local school districts have made in providing Chapter 1 services to private school students since the Felton decision. In September 1987, we provided such information[1] on progress made by 15 school districts, in response to a request from the Chairman of the House Education and Labor Committee.

In June 1988, members of the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources asked us to study the continuing effects of the Felton decision on the participation of children from sectarian private schools in the Chapter 1 program. Subsequently, we agreed to (1) obtain from state education agencies

[1]Compensatory Education: Chapter 1 Services Provided to Private Sectarian School Students (GAO/HRD-87-128BR, Sept. 21, 1987)

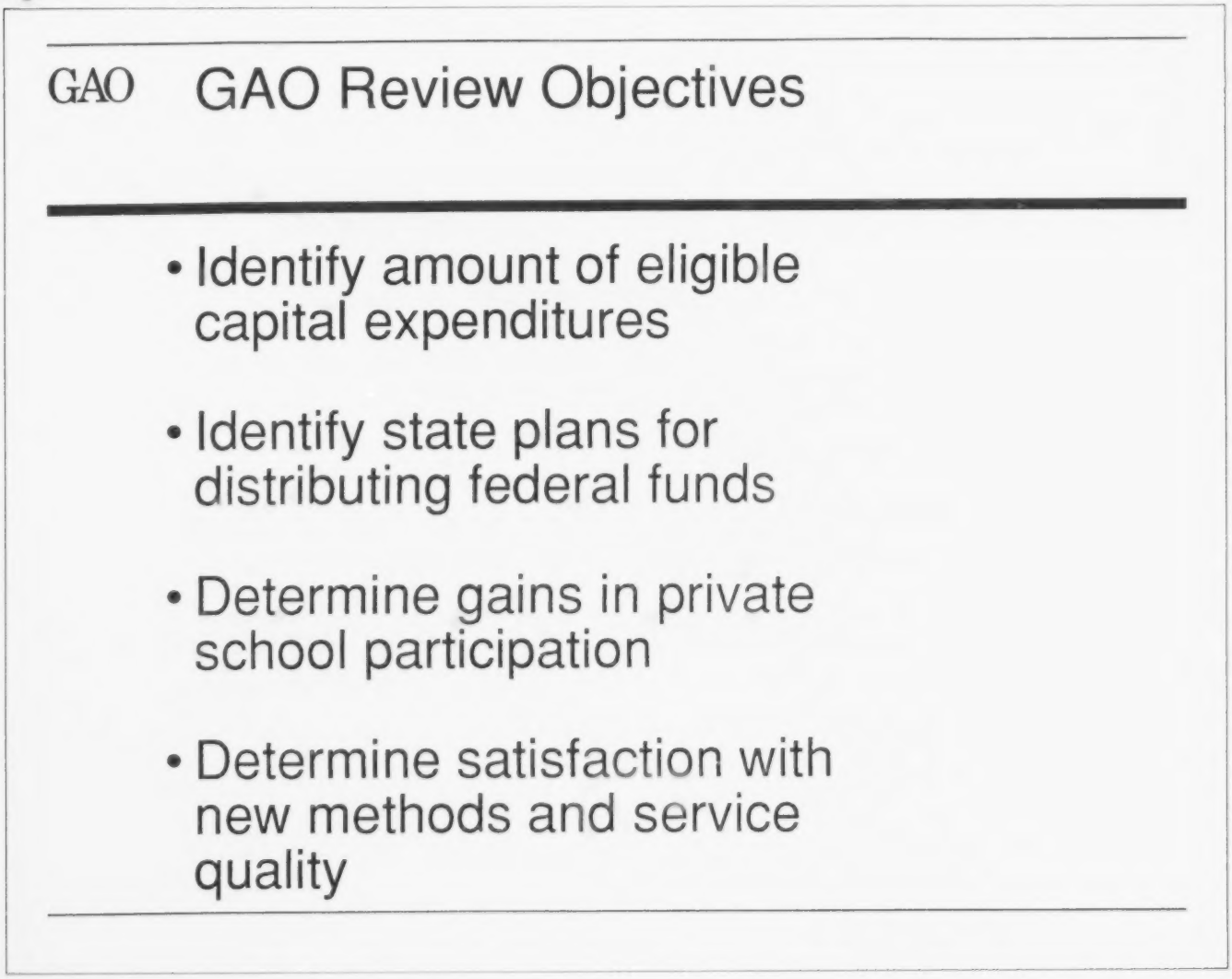
Figure 3


GAO
Background on Aguilar v. Felton Decision
• Precluded public school teachers from teaching in sectarian private schools
• Private school participation declined sharply while school districts sought new methods to provide services
• Federal funds authorized to offset local capital expenditures

data on the increases in noninstructional expenses (see pp. 17-19) incurred and planned by school districts to provide Chapter 1 services to private school students and (2) identify state plans for distributing federal funds authorized by Public Law 100-297 for payment of capital expenditures. We also agreed to determine the changes in private school participation since Felton and the satisfaction of public and private

school officials with (1) the new methods for providing services and (2) the quality of those services at selected school districts. (See fig. 4.)

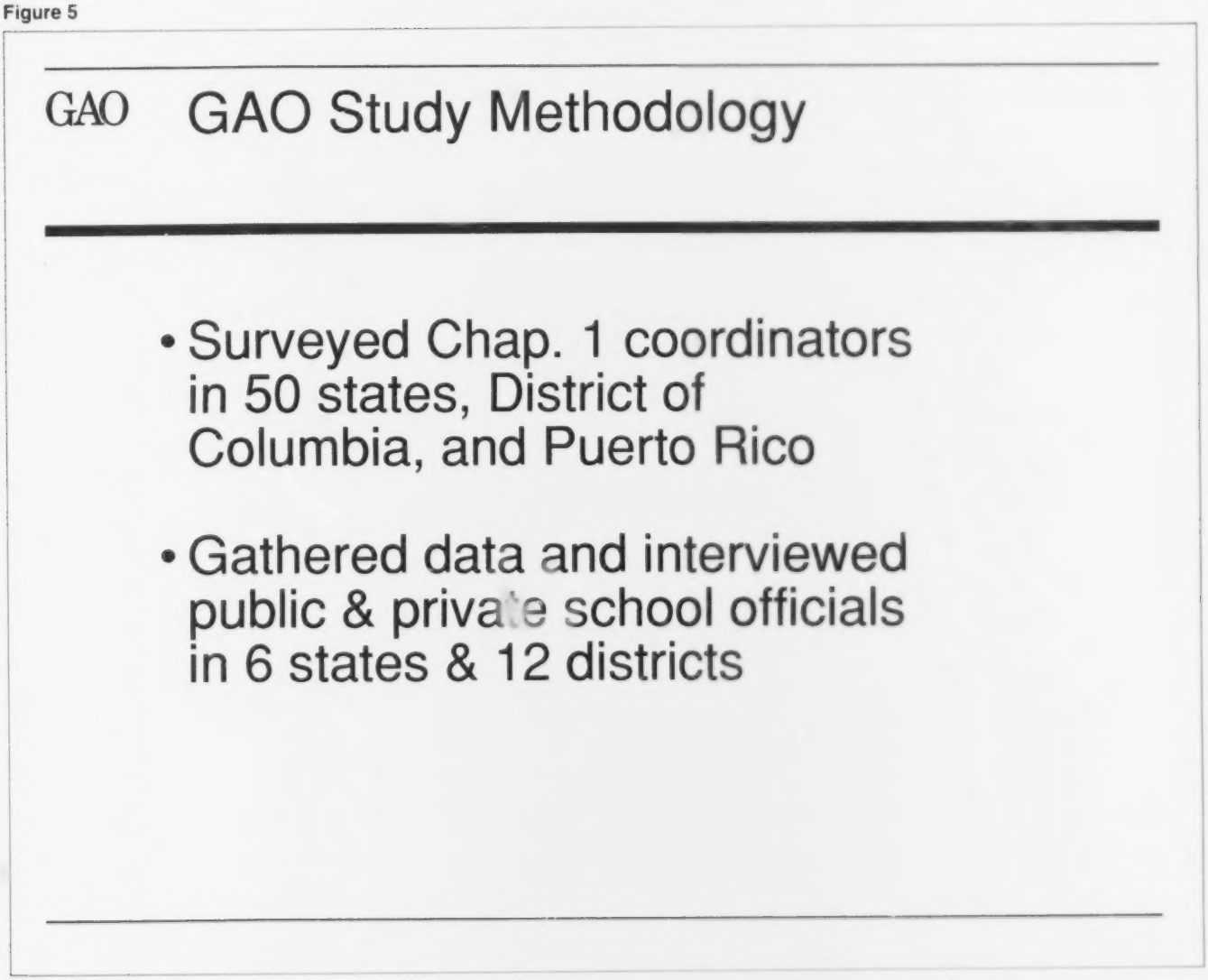
Figure 4


GAO
GAO Review Objectives
• Identify amount of eligible capital expenditures
• Identify state plans for distributing federal funds
• Determine gains in private school participation
• Determine satisfaction with new methods and service quality

Using a mail-out questionnaire and follow-up telephone calls, we surveyed Chapter 1 coordinators in 50 states, the District of Columbia, and Puerto Rico. We also visited 6 state education agencies and 12 school districts to interview state officials, as well as local public and private

officials, and to obtain program data. Private school student participation in these districts represented about 14 percent of the private student participation nationwide before Felton. We performed our audit work between November 1988 and May 1989 in accordance with generally accepted government auditing standards. (See fig. 5.)

Figure 5


GAO
GAO Study Methodology
• Surveyed Chap. 1 coordinators in 50 states, District of Columbia, and Puerto Rico
• Gathered data and interviewed public & private school officials in 6 states & 12 districts

Estimated Capital Expenditures for New Methods of Providing Services

To help school districts with capital expenditures to comply with the Felton decision, Public Law 100-297 was enacted. It authorized funds—$40 million for fiscal year 1989 and "funds as may be necessary" for fiscal years 1990 through 1993—to pay for capital expenditures incurred for noninstructional goods and services used in providing Chapter 1 services to children in private schools. In September 1988, the Congress appropriated approximately $19.8 million and the Department of Education allocated the funds to states on July 1, 1989. Education will allow reimbursement of past as well as payment for current and future expenditures. The funds were allocated in proportion to each state's share of the nation's students at private schools served by Chapter 1 during school year 1984-85, the year preceding the Felton decision. For example, if a state served 10 percent of the Chapter 1 private school students in the United States prior to the decision, it was to be allocated 10 percent of the amount appropriated.

Eligible Capital Expenditures Defined

The Department of Education clarified the statutory definition of capital expenditures eligible for federal payment in its May 19, 1989, final regulations. To qualify for payment, capital expenses must be or have been (1) incurred to comply with Felton and (2) paid out of the Chapter 1 grant. For example, a school district providing Chapter 1 services in a modular classroom purchased prior to the Felton decision cannot claim the modular classroom as an eligible expense. If, however, the modular classroom was purchased with Chapter 1 funds to comply with Felton, it would be eligible. Costs incurred to insure and maintain the new methods of providing services were also specified as eligible. In addition, transportation and other comparable costs a district may incur to operate its Chapter 1 program for sectarian private schools in compliance with Felton may be eligible. For the purposes of our review, we categorized these expenses as operating and maintenance costs. (See fig. 6.)

One of the goals of paying for capital expenses with additional federal funds is to increase the number of private school children served under Chapter 1. To do this, the Department of Education implementing regulations allow school districts to submit information sufficient to support anticipated increases in private school student participation and then apply for payment of anticipated expenses. The regulations also state that the purchase or lease costs of computers will not be eligible because computers do not fall within the statutory meaning of noninstructional goods and services.

Figure 6

GAO
Eligible Capital Expenditures Defined by Law
Noninstructional goods & services, such as
•Purchase, lease, & renovation of property
•Operation & maintenance (includes repair & upkeep, insurance, & transportation)

State Estimates of Capital Expenditures

About 3,100 school districts served private school students under Chapter 1 during school year 1987-88. Forty-six of 52 state chapter 1 coordinators estimated that school districts have or will incur $105 million in eligible capital expenditures (see fig. 7). These 46 states had 81 percent of the private school children in Chapter 1 before Felton. Forty-two

states reported that school districts incurred approximately $63 million (60 percent) of the $105 million in eligible capital expenditures during school years 1985-86 through 1988-89. Thirty-seven states anticipate spending approximately $24 million (23 percent) for future purchase, lease, or renovation costs. Thirty-eight states estimated future operating and maintenance costs to be $18 million (17 percent).

These expenditures are based on preliminary estimates because, at the time of our review, states had not required school districts to report capital expenditures. More complete data will be available from state education agencies when school districts apply for payment of eligible expenses.

Six states were unable to provide estimates of expenditures. One was California, which before Felton served approximately 11 percent of the nationwide, private school students under Chapter 1 and presumably will add significantly to the total expenditures. The other five states combined served 8 percent of the private school students before Felton.

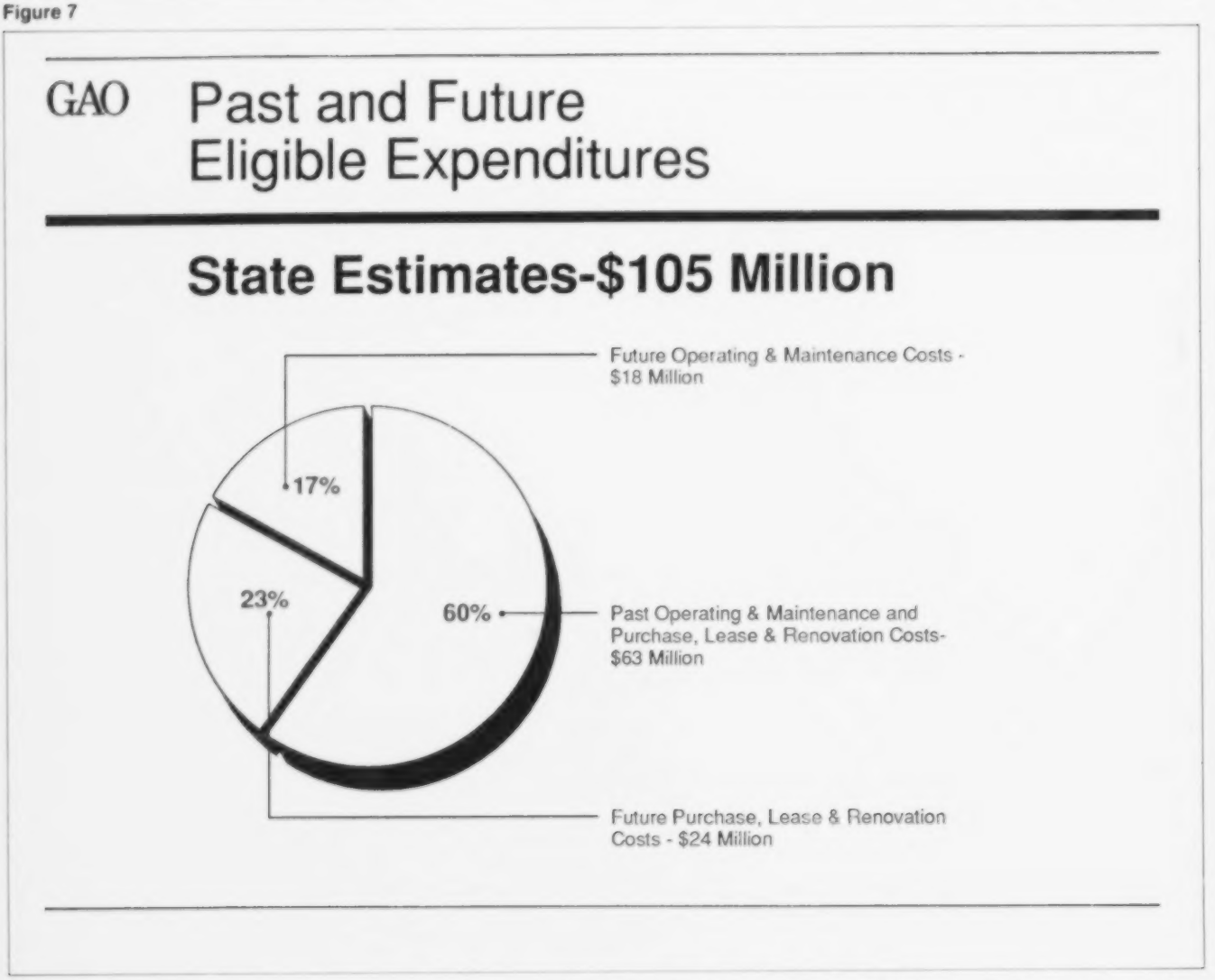
As shown in figure 8, a small number of the 46 states that gave us estimates account for most of the capital expenditures: 6 states account for $80 million (76 percent) of the $105 million and the remaining 40 account for $25 million (24 percent). The six states are New York, $35 million; Texas, $12 million; Pennsylvania, $9 million; Louisiana, $9 million; New Jersey, $9 million; and Illinois, $6 million. Before Felton these six states served 49 percent of private school students under Chapter 1.

Spending Varied for New Methods of Providing Services

Eligible expenses for new methods of providing Chapter 1 services were reported by 46 states (see fig. 9). School districts spent more on computers, an ineligible expense, than any other method. Thirty-two states reported that reliance on computers had increased due to Felton. Of these 32 states, 24 estimated that districts spent $34 million of Chapter 1 funds on computer-aided instruction. The new methods reported were:

- Computer-aided instruction. Five of the 12 school districts we visited used computer-aided instruction: four used in-school terminals and one used take-home computers. For the in-school program, school districts installed computer terminals in private schools and connected them to a central programming unit in a public school. For the take-home program, the school district loaned parents computers and software for students to use at home.

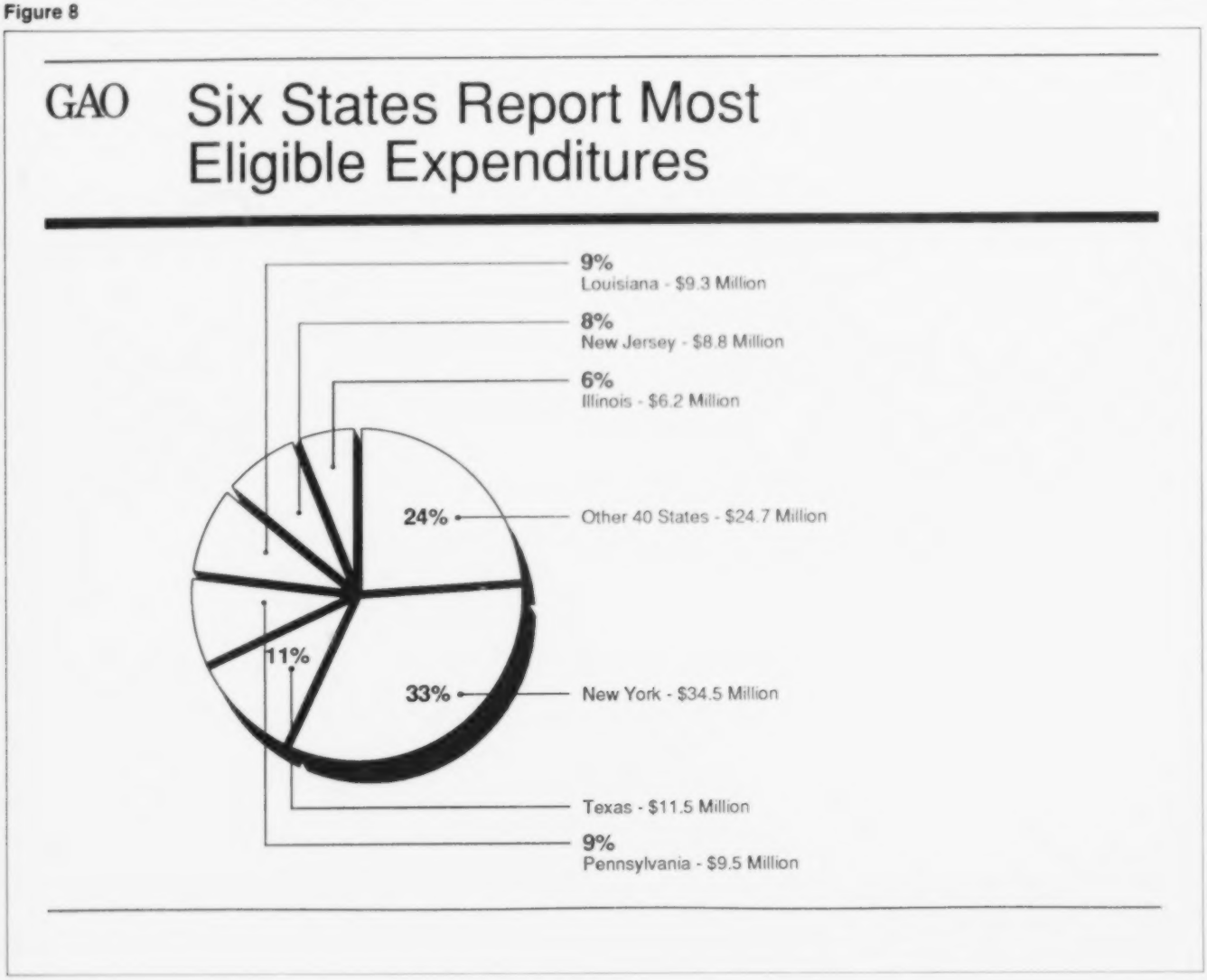
Figure 7


GAO
Past and Future
Eligible Expenditures
State Estimates-$105 Million
Future Operating & Maintenance Costs - $18 Million
17%
23%
60%
Past Operating & Maintenance and Purchase, Lease & Renovation Costs- $63 Million
Future Purchase, Lease & Renovation Costs - $24 Million

Note: Excludes California, Connecticut, Idaho, Indiana, Ohio, and Washington, which together had 19 percent of the private school Chapter 1 children before Felton.

- Mobile vans. Of the eligible capital expenditures, school districts spent the most ($31 million) on mobile vans. These vans usually are driven daily to one or more private schools and parked on either the street, leased private-school property, or adjacent property. The van is then connected to an external power source. Associated costs may involve the

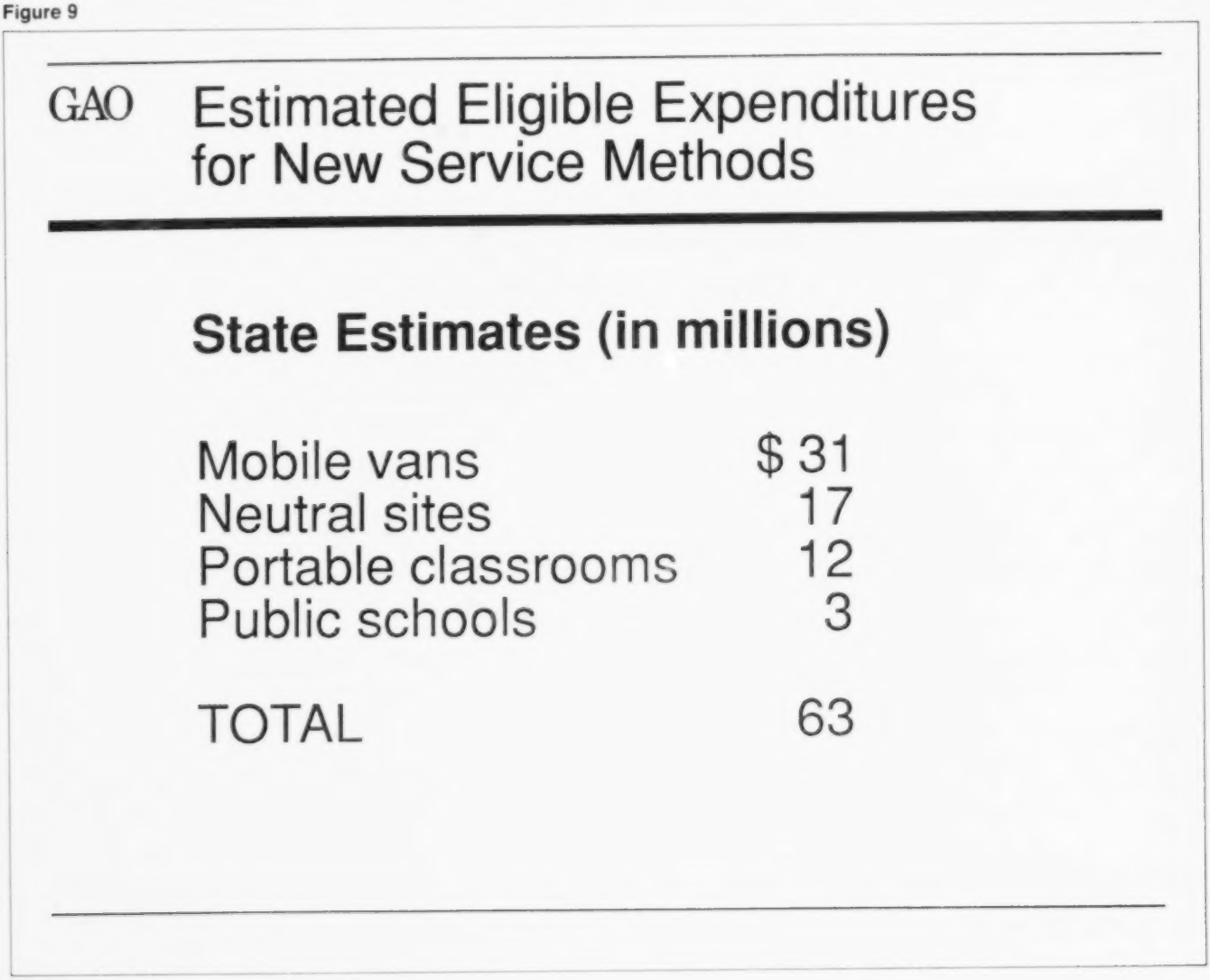
Figure 8



lease or purchase of the van, a driver's salary, insurance, utility costs, and maintenance.

- Neutral sites. School districts spent $17 million on neutral sites. Students walk or are transported to a public or privately owned building located off the private school property. Related costs may involve crossing guards or a bus and driver, and lease or renovation costs.

Figure 9



- Portable classrooms. School districts spent $12 million on portable classrooms, semipermanent buildings erected on the grounds of the private school. Costs may involve the purchase of the classroom, rent or utilities the private school charges the school district, and maintenance.
- Public schools. School districts spent $3 million on public schools. Private school students either walk or are transported to a public school

used to provide Chapter 1 services. Costs related to this method may involve crossing guards, buses, bus drivers, and renovation.

Each of the school districts we visited that incurred capital expenditures for these methods said the spending did not reduce Chapter 1 services to private or public school children. Chapter 1 participation was not reduced for several reasons:

1. Four districts—Boston, Detroit, Los Angeles, and Philadelphia—used grant funds unspent at the end of the year (carryover funds) to fund new methods of providing services.

2. Four districts—Boston, Easthampton, and Springfield, Massachusetts, and Grand Rapids, Michigan—incurred very small amounts of capital expenditures.

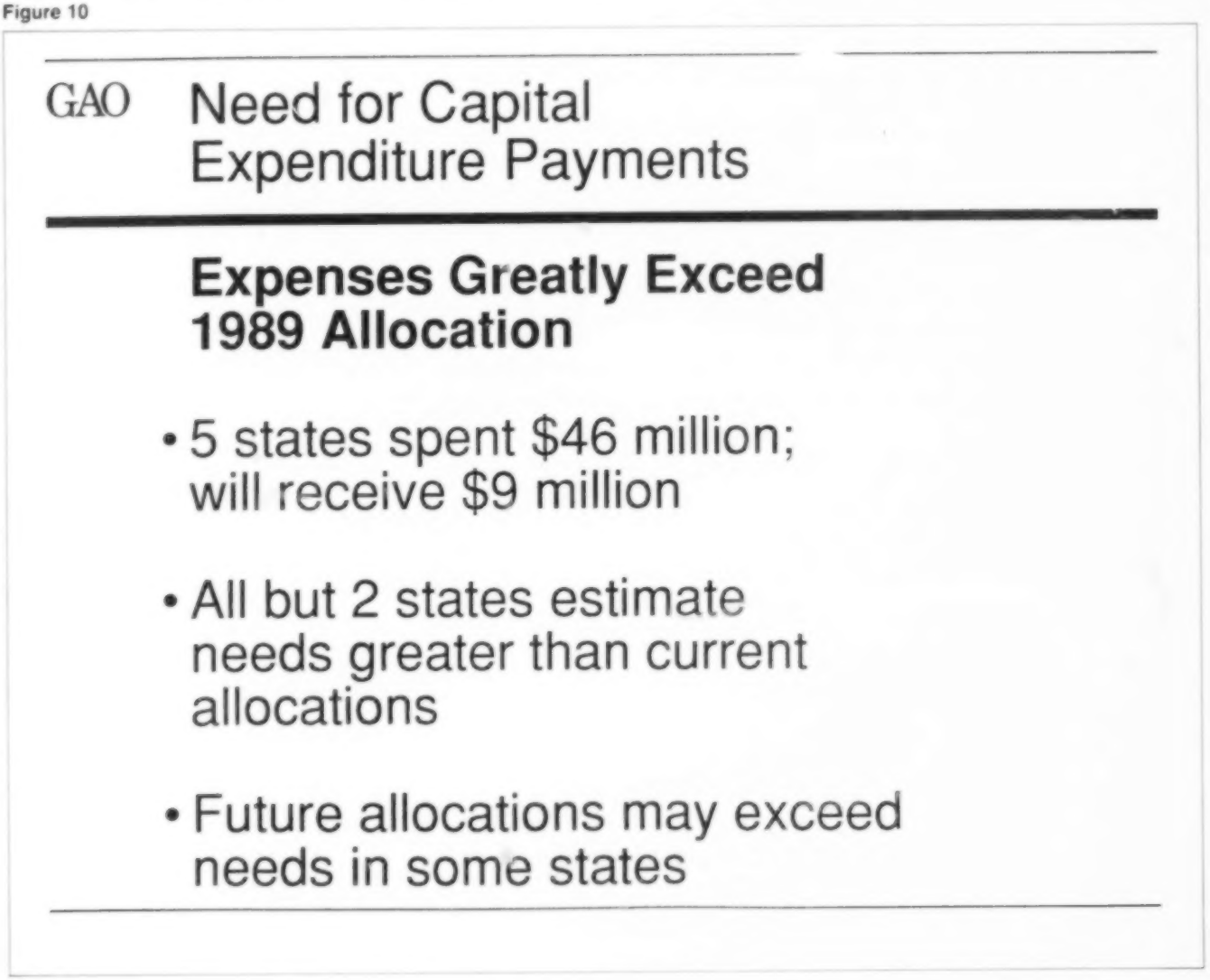
3. Three school districts incurred no capital expenditures (Cleveland and Columbus, Ohio, and Interboro, Pennsylvania), and one received supplements to its Chapter 1 grants from state and local governments (Montgomery County, Maryland).

4. Although the Johnstown, Pennsylvania, school district increased its student-teacher ratio from two to five students per teacher, a district official told us Chapter 1 services were not reduced.

Spending Estimates for Eligible Capital Expenses Greatly Exceed 1989 Appropriation

According to the 46 state estimates, eligible capital expenditures exceed the 1989 appropriation of $19.8 million. In 35 states, estimates exceeded the state's allocation by more than $100,000. The $19.8 million is sufficient to cover 31 percent of the $63 million states estimated that school districts would have expended by the end of the 1988-89 school year. In states with large expenditures, the allocation covers a somewhat smaller percentage of capital expenses. The 5 states (of the 46) that have incurred the most expenses (Illinois, Louisiana, New Jersey, New York, and Pennsylvania) will be paid for 20 percent of their expenditures. Together, these five states spent an estimated $46 million and will receive $9 million of the 1989 allocation. (See fig. 10.)

Figure 10


GAO
Need for Capital Expenditure Payments
Expenses Greatly Exceed 1989 Allocation
• 5 states spent $46 million; will receive $9 million
• All but 2 states estimate needs greater than current allocations
• Future allocations may exceed needs in some states

Only two states, Alaska and Oregon, estimate that their 1989 allocation will exceed their need for capital expense payment. Future appropriations may also exceed some states' need for capital expense payments, because spending is not equal across states. For example, a state might not receive an allocation large enough to pay for expenditures this year, but as future funds are appropriated, its needs might be met or even exceeded under the current allocation process. As the allocation is based

on each state's number of private school Chapter 1 students during school year 1984-85, states could be allocated funds they do not need. The regulations require, however, that funds in excess of needs be returned to the Department of Education for reallocation to other states.

State Plans for Distributing Federal Capital Expense Payments to School Districts

Public Law 100-297 specified how the funds would be divided among states, and authorized states to distribute the funds to local educational agencies based on school districts' need. The implementing regulations allow states to establish criteria to decide how to allocate funds among school districts. The Department of Education specified that these funds may be used to cover past, present, or future capital expenses. In addition, the Department provided the following examples of criteria states could use to determine need:

- The extent to which funds would be used to increase private school student participation,
- the quality of services the school district provides relative to the year prior to Felton decision,
- the percentage of Chapter 1 grants that school districts spent on eligible capital expenditures, and
- a comparison of the extent to which a school district is providing services to the same number or percentage of private school students before and after Felton.

States Plan to Distribute Most Funds for Past and Present Expenditures

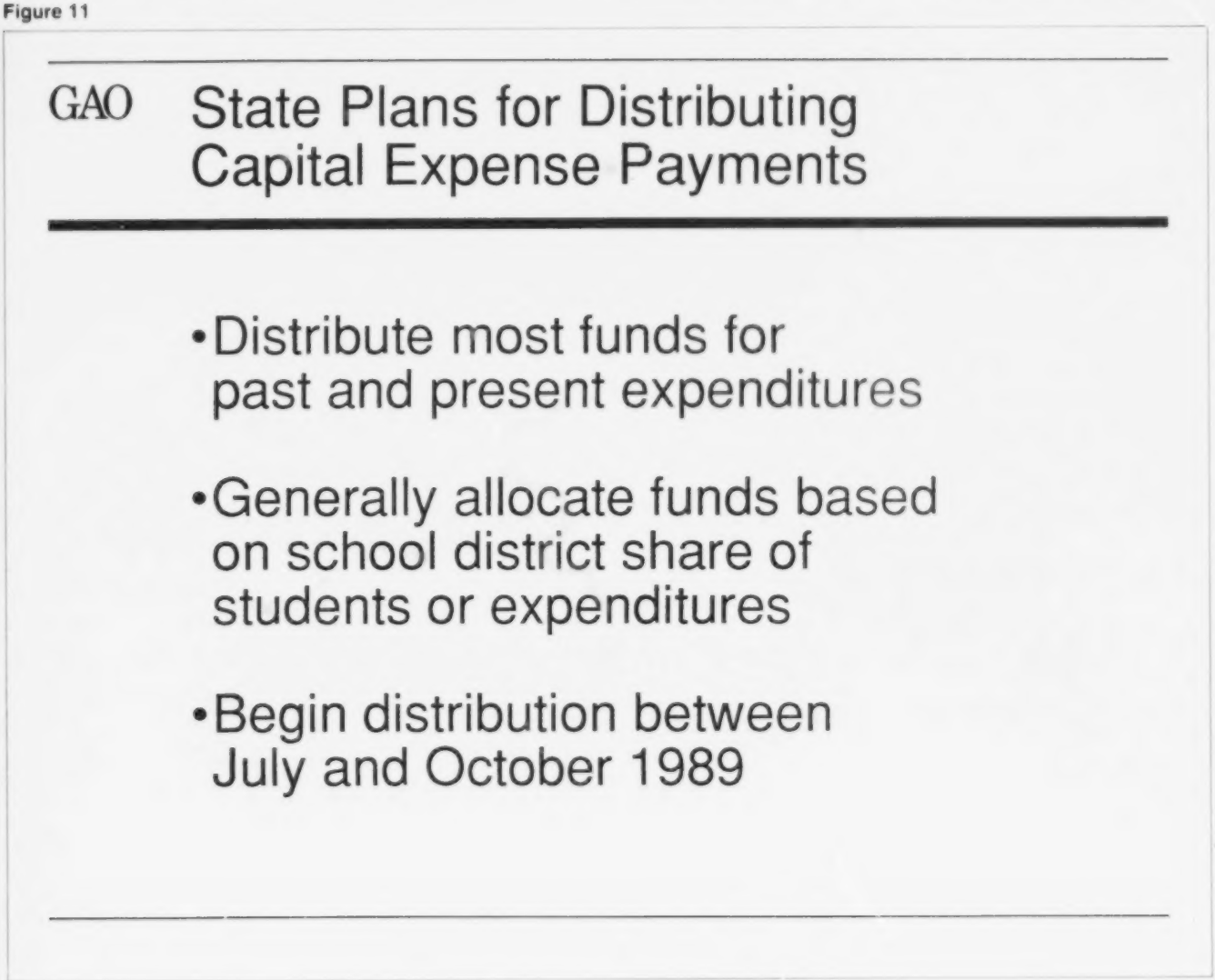
For the 1989 appropriation, 41 of 47 responding states plan to distribute the majority of the funds allocated to them for past and present expenditures—those incurred during school years 1985-86 through 1988-89. Five of the 47 states plan to distribute the majority of the funds for planned future capital expenses—those a school district will incur because of an expected increase in the number or percentage of private school students served. The remaining state indicated it would use a combination of past and future expenditures. (See fig. 11.)

States Plan to Use Participation or Spending as Allocation Criteria

Most states plan to allocate funds among school districts according to each district's share of students and/or expenditures, using more than one factor. Responses to our survey showed that:

- Eleven states will consider each school district's percentage of Chapter 1 students (public and private) compared with the total number served in the state.
- Twenty-nine states will consider each school district's number of private school Chapter 1 students served compared with the total number of private school students served in the state.
- Thirteen states will consider each school district's percentage of unserved eligible private school students.

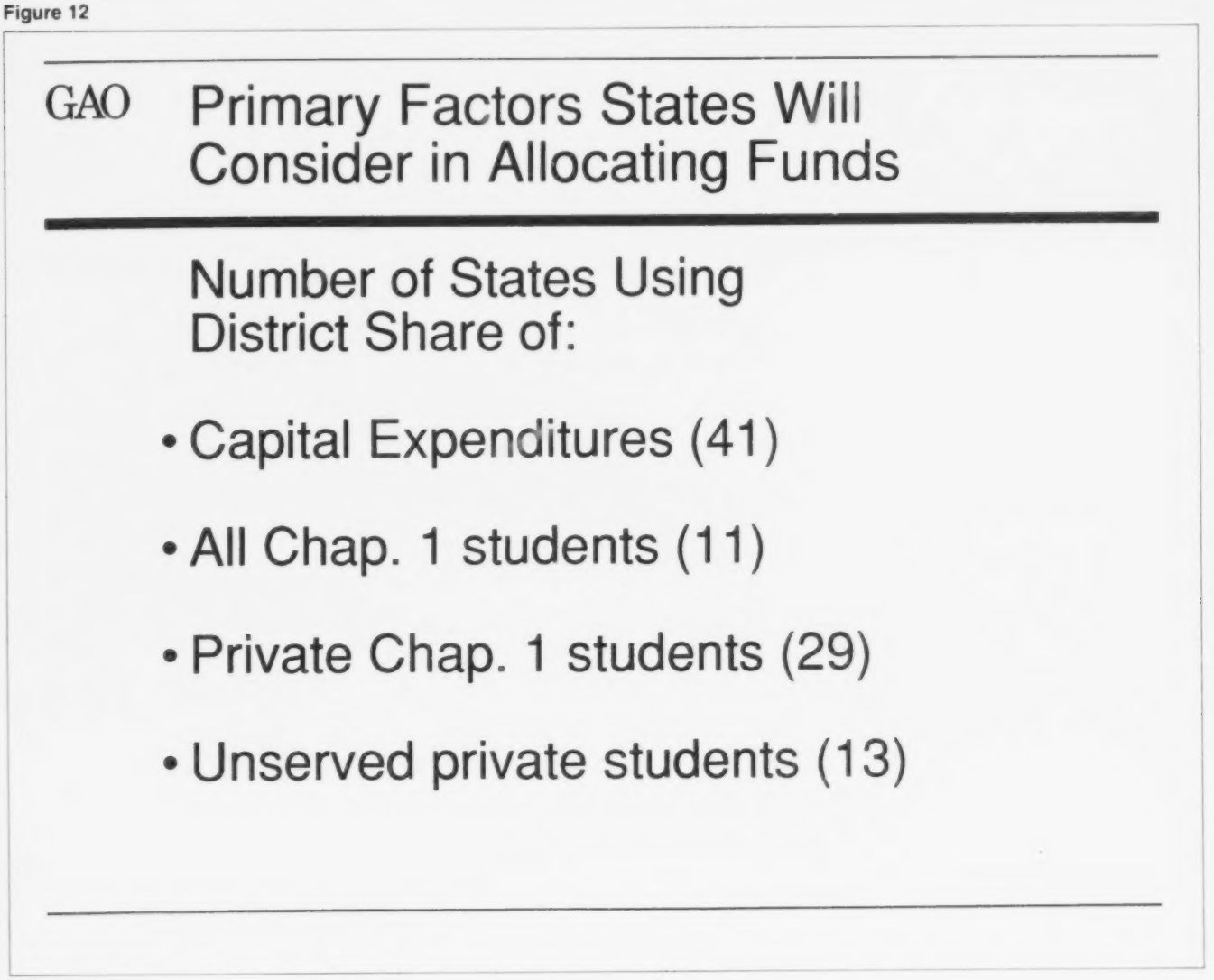
Figure 11


GAO
State Plans for Distributing Capital Expense Payments
•Distribute most funds for past and present expenditures
•Generally allocate funds based on school district share of students or expenditures
•Begin distribution between July and October 1989

Of states using expenditures as criteria, 41 reported that they will consider each school district's share of statewide capital expenditures. The most popular combination of factors, as reported by 10 states, will allocate funds based on each school district's proportion of all (1) Chapter 1 private school students served and (2) capital expenditures. These plans

may change, however, because most states had just begun to think about allocating funds when we surveyed them. (See fig. 12.)

Figure 12


GAO
Primary Factors States Will Consider in Allocating Funds
Number of States Using District Share of:
• Capital Expenditures (41)
• All Chap. 1 students (11)
• Private Chap. 1 students (29)
• Unserved private students (13)

Private School Student Participation in Chapter 1 Program Remains Less Than Before Felton

Following the Felton decision, private school students' participation in the Chapter 1 program decreased 34 percent, from 185,000 to 123,000 students nationwide between school years 1984-85 and year 1985-86. Although participation has since increased, as of school year 1987-88 it remained at 142,000 students, 23 percent less than before Felton. Participation estimates provided by state education agency officials for school year 1988-89 reflect further increases to 151,000 student. But that level still is 18 percent, 34,000 students, below that for school year 1984-85. (See fig. 13.)

Participation data collected from the 12 districts we visited showed a similar trend. In 8 of the 12 districts as of school year 1988-89, participation remained less than before Felton. Participation in four districts had increased since the decision (see fig. 14). Overall, participation in the eight districts had decreased by 3,924 students, 17 percent. For individual districts, the decreases ranged from 5 to 94 percent although the varying size of the student populations among the districts should be noted. For example, Easthampton (Massachusetts) experienced a 94-percent decrease in participation but that represented only 32 students. On the other hand, Philadelphia's 13-percent decrease represented 1,188 students.

Substantial Progress in Some Districts

Of the 52 state education agencies responding to our survey, 37 said they now serve fewer private school students under Chapter 1 than before Felton. Although participation is less than before Felton in some locations, four school districts we visited have made substantial progress in adjusting to the Felton decision, as shown in figure 15, even though they have not returned to the number before Felton.

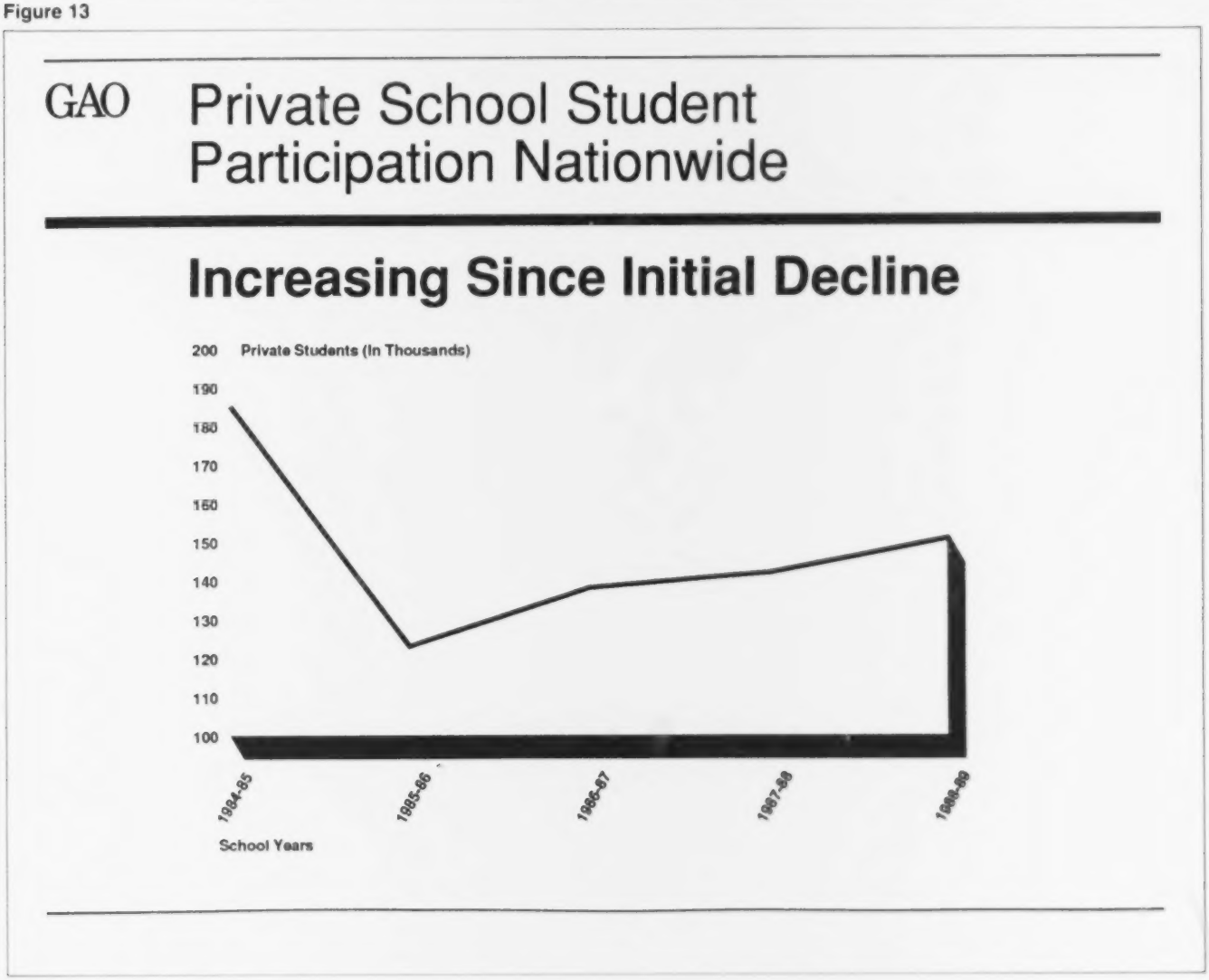
Los Angeles

Los Angeles, for example, experienced a 98-percent decrease in private school student participation after the Felton decision but had recovered to only 21 percent below as of the 1988-89 school year. The primary factor contributing to the Los Angeles district's recovery was the Department of Education's June 1986 guidance clarifying that portable classrooms could be placed on property leased from the private school. Based on this clarification, the Los Angeles school district resumed services to private school students in modular buildings on property leased from private schools.

Philadelphia

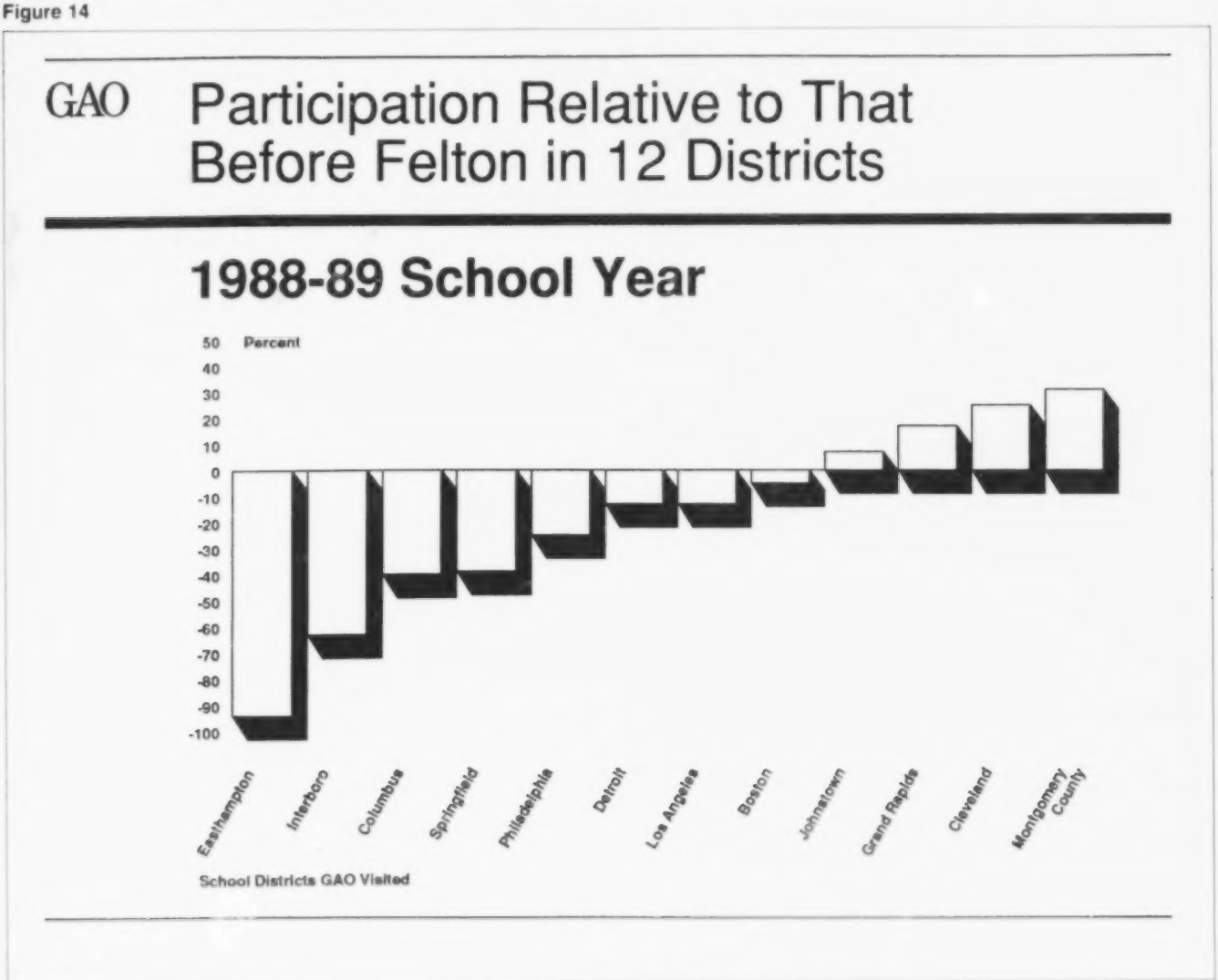
The Philadelphia school district also has increased participation substantially since the initial decline. By school year 1986-87, participation

Figure 13



decreased 52 percent, but by school year 1988-89 had recovered to within a 13-percent decrease. The primary factor that helped the district increase participation was greater use of computer-aided instruction, which allowed the district to reach a large number of students without causing them to leave their classroom in the private school buildings. In addition, with the Department's clarifying guidance, Philadelphia replaced its mobile vans with portable classrooms located on

Figure 14

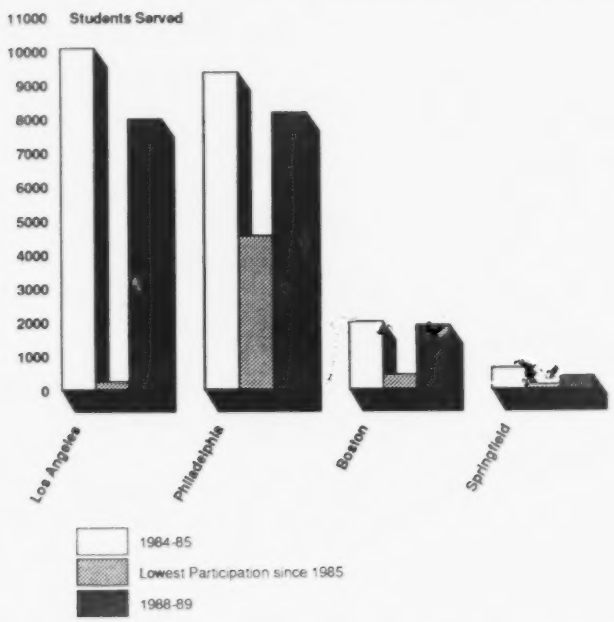


leased private school property. These have larger student capacity than the mobile vans, enabling more students to be served. This change is expected to further increase the private school student participation in Philadelphia.

Figure 15

GAO Districts Below Pre-Felton Levels Showed Gains

Examples Of Progress



Boston

The Boston school district also has made gains in its private school student participation. The district had a 78 percent decrease in participation during school year 1985-86; however, data for school year 1988-89 shows participation was only 5 percent below the level before Felton. The primary reason for the recovery is the use of computer-aided

instruction. After attempting to serve students at neutral sites, the district began computer-aided instruction and eliminated the need for the students to leave their private school buildings. Although some students are still served in a public school and neutral site, district and private school officials consider the computer program the preferred and most effective method.

Springfield

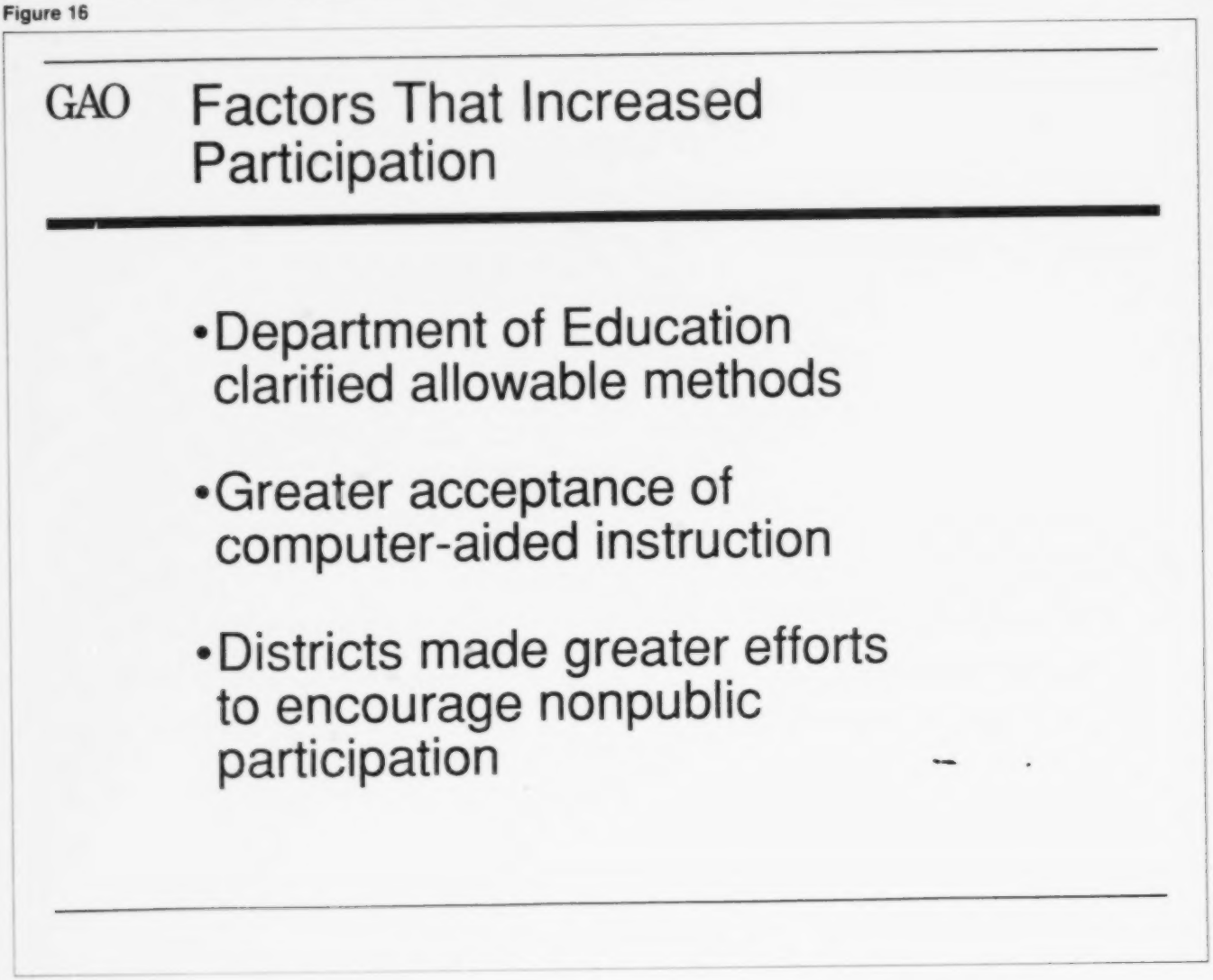
The Springfield, Massachusetts, school district also has made significant progress in serving private school participants under its Chapter 1 program. After the Felton decision, this district experienced a 78-percent decrease in participants. District officials attributed the decrease to two factors. The primary one was parental resistance to the students leaving the building and either walking or being bused to a neutral site or public school. A secondary factor was the elimination of one school attendance area, which decreased participation by approximately 100 students. As of school year 1988-89, the district had experienced only a 40-percent decrease from before Felton. District officials attributed this to (1) its ability to locate neutral sites closer to the private school buildings, reducing the need for busing and travel time, and (2) implementation of a computer-aided instruction program that eliminated the need for students to leave private school buildings altogether.

Factors That Helped Increase Participation

Throughout the 12 districts we visited, district officials cited several factors that helped to increase student participation (see fig. 16). As previously discussed, one factor was the Department of Education's clarification of allowable methods for providing Chapter 1 services. Specifically, the clarification that portable classrooms could be located on a leased or rented portion of the private school grounds resolved questions and problems the districts were having in implementing that method. Once this was clarified, school districts were able to move ahead with the necessary arrangements and begin serving students in portable classrooms. Districts citing the clarification as a major factor in their participation recovery were Los Angeles and Philadelphia.

Acceptance of computer-aided instruction as a method of providing services was another factor cited as increasing student participation. Immediately after the Felton decision, several district and private school officials told us they were apprehensive about the use of such instruction. In Los Angeles, district officials expressed concern with the cost of support services (for example, telecommunications), and private school representatives were not convinced that effective and equitable service

Figure 16


GAO
Factors That Increased Participation
•Department of Education clarified allowable methods
•Greater acceptance of computer-aided instruction
•Districts made greater efforts to encourage nonpublic participation

could be achieved with computers. In Philadelphia, the district was uncertain as to which software packages were best and would meet legal requirements for monitoring and data collection. In Springfield, private school teachers did not believe computers could replace the Chapter 1 teacher. Since the initial concerns of public and private school officials, computer-aided instruction has become more widely accepted as a

means to provide Chapter 1 services to private school students. As discussed above, both Boston and Philadelphia use computers extensively; neither district, however, chose this method initially. Springfield, which adopted a computer-aided instruction program, predicts it will increase participation at private schools.

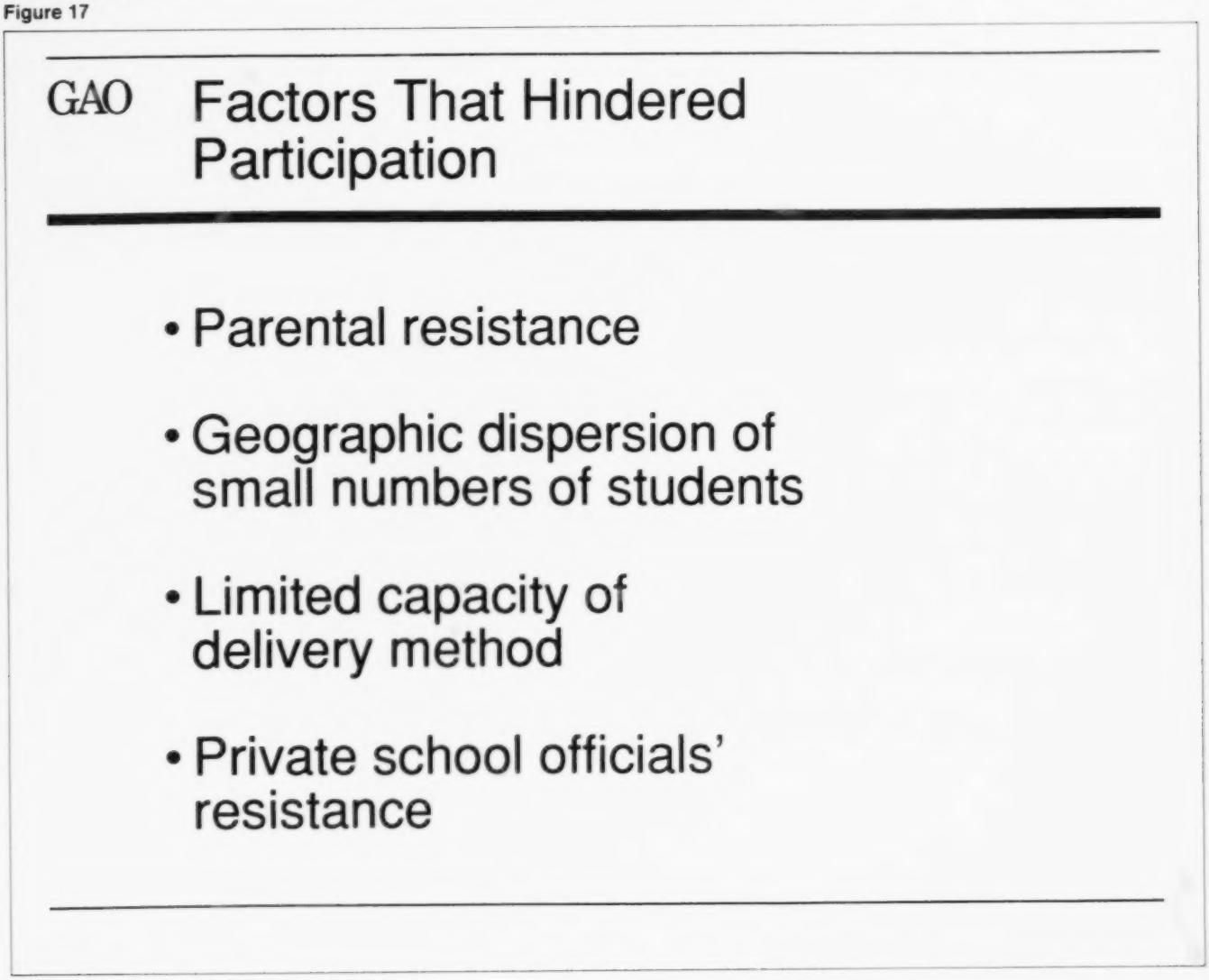
Greater school district support of the private school program also was cited as significant in helping increase participation. Following the Felton decision, school districts were forced to concentrate more time and energy on providing Chapter 1 services to private school students. In addition, some districts began to make greater efforts to promote the program and encourage private school participation. Cleveland school district officials actively recruited private schools with students eligible to participate in the program. Because of their efforts, the district has increased from 38 to 42 the number of private schools participating in Chapter 1. In other cases, district officials actively promoted the program within the private schools by speaking with the private school principals and parents to encourage their support. For example, district officials in Johnstown, Pennsylvania, told us private school participation has increased to approximately 2 percent more than before Felton because of the district's efforts to promote the program.

Factors Hindering Increases in Participation

School district officials cited several Felton-related factors that have hindered recovery (see fig. 17). One has been parental resistance to the district methods for providing services. In two districts, parents of private school students withdrew their children from the Chapter 1 program because they did not want them leaving the private school to receive services. In the Interboro, Pennsylvania, school district, participation has decreased 63 percent, from 70 students receiving service before Felton to 26 students in school year 1988-89. As previously discussed, Easthampton, Massachusetts, has had a 94-percent decrease, primarily because of parental resistance.

Another factor cited as causing participation to remain less than before Felton is the lack of cost-effective methods to serve small groups of students. According to Detroit school officials, for example, some private schools have small numbers of eligible students, and the prevalent method for delivering services used in the district, portable classrooms, is not cost-effective for them. In such cases, Detroit students who would have received service before Felton are not served.

Figure 17


GAO
Factors That Hindered Participation
• Parental resistance
• Geographic dispersion of small numbers of students
• Limited capacity of delivery method
• Private school officials' resistance

In another example, the Interboro, Pennsylvania, school district serves a relatively small number of private school students, only 70 before Felton, and receives a small Chapter 1 grant. These students are spread among three private schools, and the district has had difficulty finding a

cost-effective method to serve them. Since school year 1985-86, the district has been busing students to a neutral site; parental resistance, however, to the lost classroom time by busing has caused a 63-percent decrease in the number of students served. District officials would prefer portable classrooms on private school grounds, they said, but this is not cost-effective given the small number of students and the district's small grant.

The limited capacity of one service method also has hindered participation recovery. In Columbus, Ohio, private school students are served in mobile vans loaned out from a state-funded remedial education program. The primary factor keeping participation less than before Felton, district officials said, is limited student capacity of the vans. A class session in one of these vans serves only five students compared with eight students per classroom session in the private school before Felton.

Finally, in the Los Angeles school district, private school student participation remains 21 percent less than before Felton. This is the case, a school district Chapter 1 official told us, because some private school officials have withdrawn some eligible students from the program. In the past 2 years, the district has had to cut 30 teachers and 50 teacher aides from the private school Chapter 1 program as salary costs increased faster than the budget. These teachers and aides had been hired with funds that were not used in the year after Felton because methods were not available to serve the children. When the funds were expended, the extra personnel had to be cut. These cuts, in turn, increased the disruption to regularly scheduled classes, causing officials in some private schools to forego some students' participation in Chapter 1 in favor of their regular academic program.

In addition to the Felton-related hindrances, one school district we visited cited an unrelated factor. In Detroit, the school district has tightened requirements for Chapter 1 eligibility since school year 1984-85. In 1986-87, Detroit began requiring private school officials to submit students' test scores proving their Chapter 1 eligibility. Before this change, private school teachers merely submitted a list of students they recommended for the program with no documented proof of their educational need. Requiring test scores reduced the number submitted as eligible. While the magnitude of the impact of such actions on district's participation levels across the nation is unknown, it should be considered in comparisons of current participation to that before Felton.

School Officials Generally Satisfied With Methods of Providing Services and Service Quality

At the 12 districts we visited, although officials would prefer serving students in their private school classrooms, they indicated a general satisfaction with the methods for providing services. This has changed somewhat since our September 1987 report, in which some officials indicated concern with the amount of instructional time students lost and safety concerns associated with some methods of providing services.

Concern With Methods Has Lessened

Since our 1987 report, changes made in four districts have minimized safety concerns and instructional time lost because of time in transit. For example, neutral sites and vans have been relocated to buildings in closer proximity to the private school, portable classrooms close to private school buildings have been substituted for mobile vans parked on the street, and computer-aided instruction programs were implemented in the private school buildings. In addition to minimizing the time in transit, these changes helped to lessen safety concerns by reducing the need for busing to neutral sites or for students to approach busy streets, cutting the amount of time students are out of the school building, and, in the case of computer-aided instruction, making it unnecessary for students to leave the private school building.

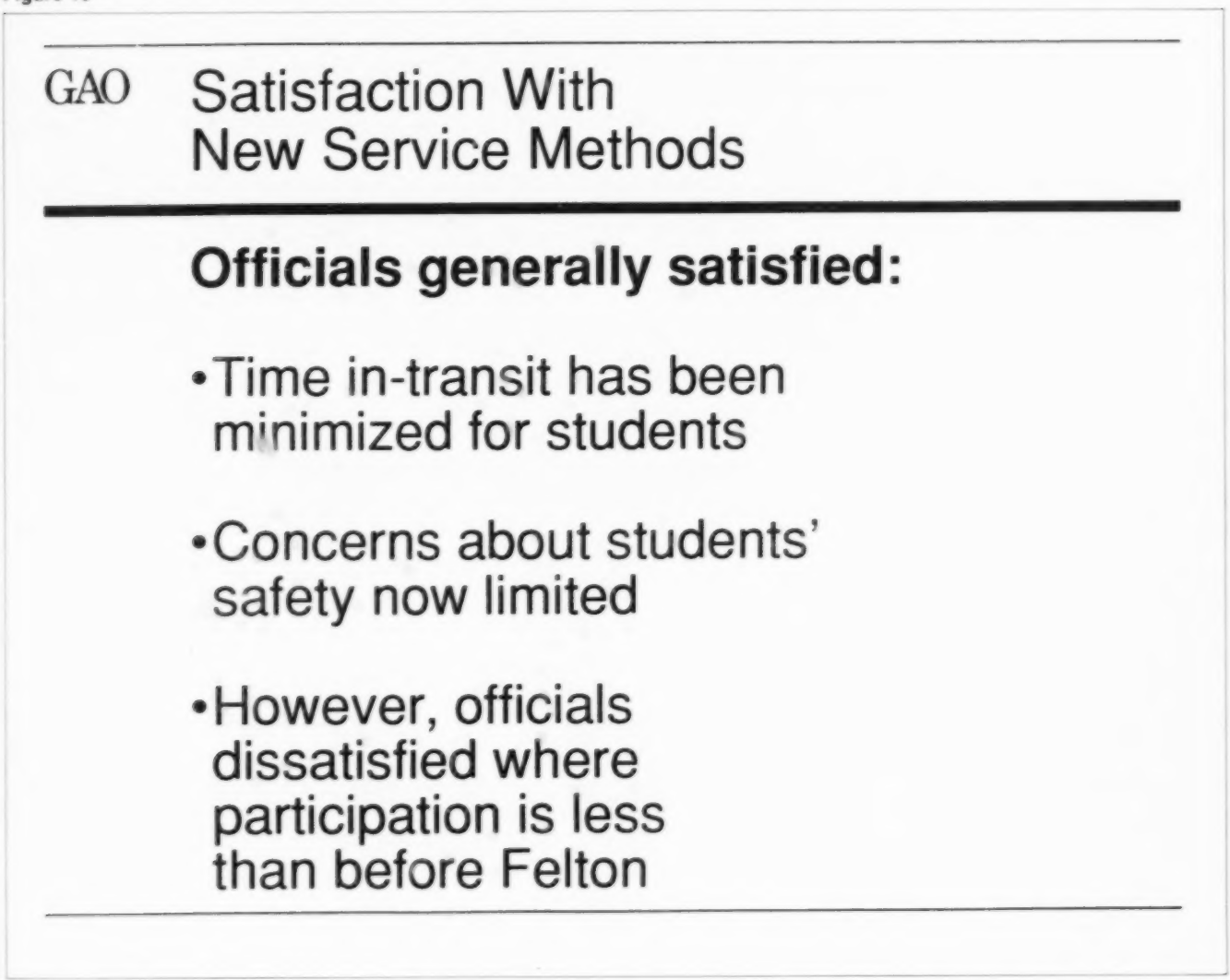
Despite satisfaction with minimal lost time and reduced safety concerns, district officials are dissatisfied that they still cannot serve some eligible children because of the Felton decision. Officials were frustrated because the decision has left them with delivery methods that have limited capacity, caused parental and private school resistance to the program, and failed to provide cost-effective methods for providing service to small groups of students. (See fig. 18.)

Service Quality Viewed Positively

Although district and private school officials are dissatisfied with the number of students being served, they are satisfied with the quality of service being provided. Both district and private school officials believe that the private school Chapter 1 students are performing as well on achievement tests as they did before the Felton decision. (See fig. 19.)

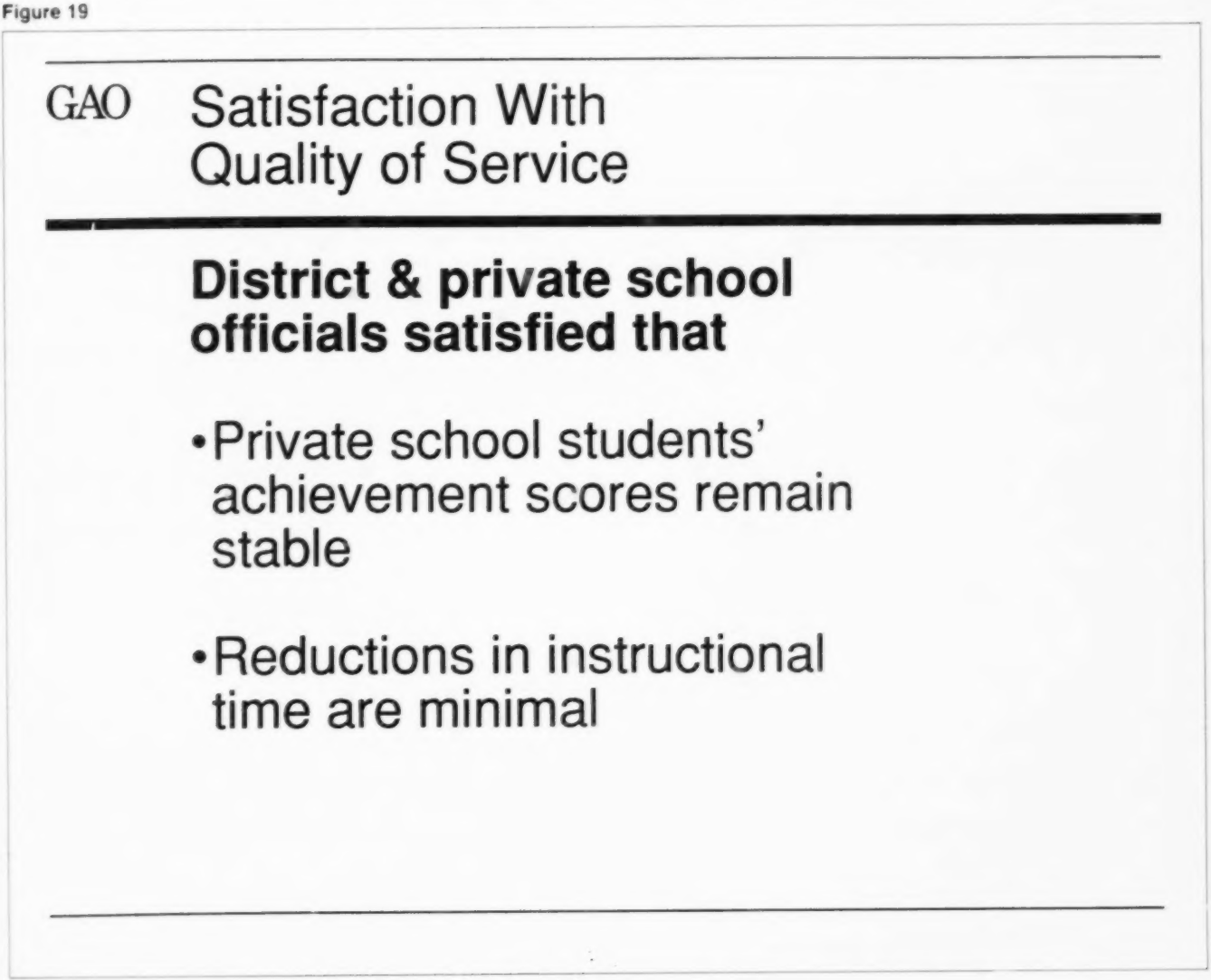
In most of the districts we visited, both public and private school officials believed the amount of instructional time private school students receive under Chapter 1 is acceptable compared with that before Felton and instructional time given public school Chapter 1 students. In response to our survey, 62 percent of the states said private school students now receive as many or more hours of instruction compared with before Felton. The largest discrepancy in the amount of instructional

Figure 18


GAO
Satisfaction With
New Service Methods
Officials generally satisfied:
•Time in-transit has been minimized for students
•Concerns about students' safety now limited
•However, officials dissatisfied where participation is less than before Felton

time provided is in districts that use computer-aided instruction to serve the students. Both public and private officials in one district said, however, that the amount of "time on task" with the computer-aided instruction is comparable with the amount of individualized attention the students would receive in a classroom setting.

Figure 19



In May 1989, the Department published final regulations for the Chapter 1 program, which contained provisions concerning services to children in private schools. Officials in the 12 districts we visited (prior to final rulemaking), told us they did not believe the proposed regulations would adversely affect private school student participation or service quality.

School Districts Visited in GAO Study and Sectarian Private School Students Served Under Chapter 1

School district	Sectarian private school students served	
	Before Felton[a]	School year 1988-89
Los Angeles, California	10,075	7,988
Montgomery County, Maryland	99	130
Boston, Massachusetts	1,987	1,880
Easthampton, Massachusetts	34	2
Springfield, Massachusetts	616	372
Detroit, Michigan	1,457	1,268
Grand Rapids, Michigan	274	321
Cleveland, Ohio	1,421	1,778
Columbus, Ohio	179	146
Interboro, Pennsylvania	70	26
Greater Johnstown, Pennsylvania	199	202
Philadelphia, Pennsylvania	9,353	8,165

[a]School year 1984

State Estimates of Eligible Capital Expenditures—Past and Future

State	Estimated capital expenditures eligible under Chapter 1			Share of federal allocation
	Past	Future	Past and future	
New York	$21,000,000	$13,500,000	$34,500,000	$4,247,182
Texas	a	11,500,000	11,500,000	537,764
Pennsylvania	8,905,372	550,000	9,455,372	2,309,111
Louisiana	3,000,000	6,300,000	9,300,000	644,203
New Jersey	8,296,471	550,000	8,846,471	1,280,911
Illinois	4,500,000	1,700,000	6,200,000	729,119
Maryland	2,747,737	137,387	2,885,124	196,923
Massachusetts	2,000,000	80,000	2,080,000	730,190
Puerto Rico	1,683,860	250,000	1,933,860	736,401
Michigan	1,210,000	550,000	1,760,000	408,303
Missouri	1,754,256	a	1,754,256	430,576
Wisconsin	800,000	750,000	1,550,000	330,882
Delaware	1,329,464	a	1,329,464	62,964
Kentucky	754,000	550,000	1,304,000	325,100
Minnesota	500,000	596,000	1,096,000	567,747
Nebraska	750,000	190,000	940,000	166,191
Mississippi	300,000	450,000	750,000	213,735
South Dakota	110,000	500,000	610,000	85,665
Tennessee	100,000	500,000	600,000	49,258
Florida	a	591,000	591,000	320,710
Georgia	338,145	250,000	588,145	115,969
Kansas	275,000	200,000	475,000	139,527
Alabama	150,000	300,000	450,000	83,524
District of Columbia	280,000	165,000	445,000	60,501
Iowa	422,219	a	422,219	246,609
Arizona	300,000	105,000	405,000	111,151
North Dakota	a	400,000	400,000	52,577
Colorado	203,000	93,000	296,000	70,888
Nevada	54,499	225,000	279,499	12,100
North Carolina	165,000	100,000	265,000	48,615
New Mexico	178,223	66,000	244,223	131,068
New Hampshire	140,000	72,500	212,500	58,574
Virginia	100,000	100,000	200,000	64,249
Oklahoma	58,731	132,000	190,731	38,335
Arkansas	80,000	85,000	165,000	61,358
Rhode Island	146,220	a	146,220	77,420
South Carolina	52,000	35,000	87,000	31,589

(continued)

State	Estimated capital expenditures eligible under Chapter 1			Share of federal allocation
	Past	Future	Past and future	
Maine	75,000	a	75,000	71,316
Utah	15,500	50,000	65,500	10,066
Montana	32,328	10,000	42,328	28,698
Vermont	a	30,000	30,000	35,123
Hawaii	13,000	a	13,000	21,202
Alaska	8,850	2,750	11,600	12,207
Oregon	2,500	3,000	5,500	66,391
Wyoming	0	0	0	5,140
West Virginia	0	a	a	30,411
California	a	a	a	2,206,526
Connecticut	a	a	a	335,701
Idaho	a	a	a	17,454
Indiana	a	a	a	391,812
Ohio	a	a	a	634,459
Washington	a	a	a	116,505
Totals	**$62,831,375**	**$41,668,637**	**$104,500,012**	**$19,760,000**

[a]State unable to provide estimate

Supporting Data for Figures

Table III.1: Private School Student Participation Nationwide

School year	Students (in thouands)	Change since Felton (percent)
1984–85	185	
1985-86	123	–34
1986-87	138	–25
1987-88	142	–23
1988-89	151 est	–18

Note: These are data for figures 2 and 13

Table III.2: Participation Relative to Levels Before Felton in 12 School Districts

School district	Percentage change from before Felton to 1988-89
Easthampton	–94
Interboro	–63
Springfield	–40
Los Angeles	–21
Columbus	–18
Philadelphia	–13
Detroit	–13
Boston	–05
Johnstown	02
Grand Rapids	17
Cleveland	25
Montgomery County	31

Note: These are data for figure 15

Table III.3: Four Districts Showed Gains Relative to Levels Before Felton

	Student participation		
School district	1984-85	Since 1985	1988-89
Los Angeles	10,075	239	7,988
Philadelphia	9,353	4,534	8,165
Boston	1,987	431	1,880
Springfield	616	136	372

Note: These are data for figure 16

Index of References to School Districts GAO Visited

School districts visited	Pages
Los Angeles, California	5, 22, 28, 30, 31, 32, and 36
Montgomery County, Maryland	22 and 30
Boston, Massachusetts	22, 30, 31, and 34
Easthampton, Massachusetts	22, 28, 30, and 34
Springfield, Massachusetts	22, 30, 31, 32, 33, and 34
Detroit, Michigan	22, 30, 34, and 36
Grand Rapids, Michigan	22 and 30
Cleveland, Ohio	22, 30, and 34
Columbus, Ohio	22, 30, and 36
Interboro, Pennsylvania	22, 30, 34, and 35
Greater Johnstown, Pennsylvania	22, 30, and 34
Philadelphia, Pennsylvania	22, 28, 29, 30, 31, 32, 33, and 34

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Related GAO Products

Compensatory Education: Chapter 1 Services Provided to Private Sectarian School Students (GAO/HRD-87-128BR, Sept. 21, 1987).

Compensatory Education: Chapter 1's Comparability of Services Provision (GAO/HRD-87-102, Aug. 27, 1987).

Compensatory Education: Chapter 1 Participants Generally Meet Selection Criteria (GAO/HRD-87-26, Jan. 30, 1987).

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